

## Message Text

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ACTION IO-14

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FM USMISSION GENEVA

TO SECSTATE WASHDC 3618

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E.O.11652: N/A

TAGS: WHO

SUBJECT: UN PRACTICE ON REIMBURSING EMPLOYEES FOR U.S.

TAXES ON LUMP SUM WITHDRAWALS: WHO

REF: (A) STATE 276643; (B) GENEVA 9625; (C) A-2278 DATED

APRIL 30, 1976; (D) STATE 163076

1. MISSION OFFICER MET WITH WHO OFFICIALS REGARDING REFTTEL (A) AND FOLLOWING IS REPLY PREPARED BY MR GUTTERIDGE, WHO LEGAL OFFICER.

2. BEGIN QUOTE: ARTICLE VI, SECTION 19(B) OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES PROVIDES THAT WHO OFFICIALS SHALL 'ENJOY THE SAME EXEMPTIONS FROM TAXATION IN RESPECT OF THE SALARIES AND EMOLUMENTS PAID TO THEM BY THE SPECIALIZED AGENCIES AND ON THE SAME CONDITIONS AS ARE ENJOYED BY OFFICIALS OF THE UNITED NATIONS'. ARTICLE V, SECTION 18(B) OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS IN TURN PROVIDES THAT OFFICIALS OF THE UNITED NATIONS SHALL 'BE EXEMPT FROM TAXATION ON THE SALARY AND EMOLUMENTS PAID TO THEM BY THE UNITED NATIONS'.

FOLLOWING RECENT INTER-AGENCY DISCUSSIONS, WHO WAS GIVEN TO UNDERSTAND THAT THE UNITED NATIONS CONSIDERS  
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THAT LUMP-SUM RETIREMENT BENEFITS PAID TO OFFICIALS FROM THE PENSION FUND WERE ASSIMILATED TO TERMINAL EMOLUMENTS, AS COMING FROM A SOURCE THAT DERIVED ITS LEGAL STATUS FROM THE UNITED NATIONS ITSELF AND THE COLLECTIVITY OF THE ORGANIZATIONS WITHIN THE UNITED NATIONS SYSTEM AND THAT THEREFORE TAXES PAID ON SUCH BENEFITS COULD BE REIMBURSED FROM THE TAX EQUALIZATION FUND. WE WERE ALSO GIVEN TO

UNDERSTAND THAT THIS POSITION WAS ACCEPTABLE TO THE RESPONSIBLE UNITED STATES AUTHORITIES.

UNDER THESE CIRCUMSTANCES AND TAKING INTO ACCOUNT THE PROVISIONS OF SECTION 19(B) OF THE SPECIALIZED AGENCIES CONVENTION, QUOTED ABOVE, WE HAD CONCLUDED THAT, AS THE EXEMPTION OF WHO OFFICIALS FROM TAXATION ON LUMP-SUM RETIREMENT BENEFITS HAS TO BE THE SAME AND ON THE SAME CONDITIONS AS ACCORDED TO UNITED NATIONS OFFICIALS, OUR STAFF SHOULD LIKEWISE BE ENTITLED TO CLAIM REIMBURSEMENT OF ANY TAXES LEVIED ON SUCH BENEFITS, WHETHER IN THE UNITED STATES OR ELSEWHERE, WHO HAVING A TAX EQUALIZATION FUND SIMILAR TO THAT OF THE UNITED NATIONS.

CONSEQUENTLY, IT WOULD NOT SEEM THAT A DETERMINATION BY THE SPECIALIZED AGENCIES, EITHER SINGLY OR COLLECTIVELY, OF THE SCOPE OF ARTICLE VI, SECTION 19(B), OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES IS INVOLVED, THE MATTER BEING ONE FOR DETERMINATION, PRIMA FACIE, BY THE UNITED NATIONS, CONSIDERING ALSO THAT BOTH THE SPECIALIZED AGENCIES AND THE UNITED NATIONS CONVENTIONS ON PRIVILEGES AND IMMUNITIES WERE APPROVED BY THE SAME LEGISLATIVE AUTHORITY, NAMELY, THE GENERAL ASSEMBLY OF THE UNITED NATIONS. END QUOTE.

3. OTHER SPECIALIZED AGENCIES ARE BEING QUERIED ON THIS LIMITED OFFICIAL USE

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MATTER. BECAUSE OF CLOSE WORKING RELATIONSHIP OF AGENCIES, IT WOULD NOT BE A GREAT SURPRISE IF REPLIES ARE NOT DISSIMILAR. SORENSON

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## Message Attributes

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**Review Markings:**  
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